IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21389 of 2004

Between:

J.K. Reddy, S/o. Chinna Reddy,

APSRTC, Wanaparthy Bus Depot
Mahabubnagar District..

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Wanaparthy Bus Depot,
Mahabubnagar District.
2 The Regional Manager, APSRTC, Mahabubnagar Region at Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in withholding annual increment for a period of one year which shall have effect on petitioners future increments as illegal, arbitrary, unjust and unreasonable and against the judgments of this Hon'ble Court and as well as the Apex court and consequently set aside the final order No.P1/114(13)/97-WNP dt. 4.10.1997 and also the consequential order dt. 14.10.1998 of the Respondent No.2 herein and pass such other order or orders.

Counsel for the Petitioner:MR.P.VENKATESWAR RAO

Counsel for the Respondent Nos.1 and2: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following Order :

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.21389 OF 2004

ORDER:

The case of the petitioner is that he was appointed as a conductor in the respondent-Corporation on 01.11.1987. On 11.07.1997, while the petitioner was performing his duty by issuing tickets on route Wanaparthy to Bhadrachalam, one lady passenger showed pass by introducing herself as wife of M.L.A. and refused to take ticket claiming that she possesses pass even though the petitioner insisted her to take ticket as the said pass was not certified by the respondent-Corporation, she did not take any ticket. As no ticket was issued by the petitioner, the respondent-Corporation issued a charge sheet dated 06.08.1997 to the petitioner, for which he gave explanation on 10.11.1997. On the basis of the explanation submitted by the petitioner, the first respondent passed a final order on 04.10.1997 imposing a penalty of withholding of annual increment for a period of one year, which shall have effect on his future increments. Aggrieved by the same, the petitioner carried the matter in appeal, which was dismissed by order dated 12.12.1997. He preferred a review to the second respondent, who by order dated 14.10.1998 confirmed the order passed by the first respondent and rejected the review petition. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner contended that major penalty cannot be imposed without conducting enquiry and, therefore, he prays to modify the penalty imposed on the petitioner since the incident took place in the year 1997.

Learned Standing Counsel appearing for the respondents opposed the same and submitted that there are no grounds to interfere with the findings given by the lower authorities.

The incident had taken place on 11.07.1997, wherein one lady passenger refused to take ticket stating herself as wife of M.L.A. Therefore, the first

respondent called for explanation from the petitioner and having not been satisfied with the explanation offered by the petitioner, the first respondent imposed the major penalty of deferment of one increment with cumulative effect by proceedings dated 04.10.1997. There cannot be any dispute that imposing penalty of stoppage of one increment with cumulative effect, is a major penalty, which cannot be imposed without conducting regular departmental enquiry Admittedly, in this case, no such departmental enquiry was conducted. Though the matter can be remitted to the first respondent, but under the peculiar facts and circumstances of the case, as the incident had taken place about seven years back, it is not desirable to remit the matter again, perhaps that is the reason why the learned counsel appearing for the petitioner has requested this Court to impose minor penalty instead of major penalty.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of one increment with cumulative effect, imposed by the first respondent, as confirmed in appeal and review petition can be reduced with slight modification. Therefore, the order of punishment is modified as deferment of one increment without cumulative effect.

The writ petition is accordingly disposed of. No costs.

23.11.2004

usd

To

1 The Depot Manager, APSRTC, Wanaparthy Bus Depot,
Mahabubnagar District.
2 The Regional Manager, APSRTC, Mahabubnagar Region at Mahabubnagar.

3. Two CD copies.